

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

ELEKTRA ENTERTAINMENT
GROUP INC., a Delaware corporation;
WARNER BROS. RECORDS INC., a
Delaware corporation; CAPITOL
RECORDS, INC., a Delaware
corporation; SONY BMG MUSIC
ENTERTAINMENT, a Delaware general
partnership; and UMG RECORDINGS,
INC., a Delaware corporation.

Plaintiffs,

V.

PAULE WILKE

Defendant.

DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

Case No.: 06CV 2717

FILED

AUG 09 2006

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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Honorable James F. Holderman
Magistrate Judge Geraldine S. Brown

DEFENDANT PAUL H. WILKE'S MOTION FOR SUMMARY JUDGMENT

NOW COMES Defendant PAUL H. WILKE (incorrectly sued herein as "PAULE WILKE"), by his attorneys at Saper Law Offices, and respectfully moves for Summary Judgment on Count I, copyright infringement, in the complaint filed by Plaintiffs ELEKTRA ENTERTAINMENT GROUP INC., WARNER BROS. RECORDS INC., CAPITOL RECORDS, INC., SONY BMG MUSIC ENTERTAINMENT, and UMG RECORDINGS, INC., (collectively "Plaintiffs"), pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1 of the Northern District of Illinois. In support of this motion, Defendant states the following:

1. In May 2006, Plaintiffs filed a one count complaint against a Paule Wilke alleging copyright infringement by means of a "media distribution system."

2. First, the Plaintiffs have named the wrong individual. Defendant, Paul H. Wilke, is neither addressed as nor has ever used the name PAULE.

3. Second, Defendant has never possessed in his computer any of the alleged Sound Recordings in Plaintiffs' Exhibit A. Defendant possesses in his computer only a few of the Sound Recordings in Plaintiffs' Exhibit B, and the few that are in his computer have been imported from legally purchased compact disks ("CD") that the Defendant owns and possesses.

4. Finally, Defendant has never used any online media distribution system to download, distribute to the public, or to make Copyrighted Recordings available for distribution to others.

5. Accordingly, Plaintiffs cannot prove that Defendant has committed any acts that constitute infringement and Defendant is entitled to summary judgment.

6. Defendant requests that the Court award his reasonable attorneys fees and expenses pursuant to 17 U.S.C. § 505.

7. In support of this motion, Defendant is submitting herewith his Memorandum of Law in Support of Defendant's Motion for Summary Judgment, Local Rule 56.1 Statement of Material Facts, and the Affidavit of Paul H. Wilke along with corresponding Exhibits labeled A-F


WHEREFORE, Defendant Paul H. Wilke, respectfully requests that the Court grant this motion, enter summary judgment in the Defendant's favor, and issue a final judgment dismissing this case, with prejudice. In addition, the Court should award Defendant his reasonable attorneys' fees and expenses pursuant to 17 U.S.C. § 505, and grant the Defendant leave to file the appropriate documentation in support thereof.

Dated: August 9, 2006

Respectfully submitted,

PAUL H. WILKE

By:


His Attorney

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